

§ 151.0

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AUTHORITY: 19 U.S.C. 66, 1202 (General Note 3(i) and (j), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

Section 151.11 also issued under 21 U.S.C. 381;

Section 151.21 also issued under the provisions of Chapters 17 and 18, HTSUS;

Section 151.42 also issued under 19 U.S.C. 1460, 1584, 1592;

Section 151.43 also issued under 19 U.S.C. 1592;

Section 151.46 also issued under 19 U.S.C. 1507;

Section 151.62 also issued under 19 U.S.C. 1481;

Section 151.63 also issued under 19 U.S.C. 1484;

19 CFR Ch. I (4–1–12 Edition)

Section 151.66 also issued under 19 U.S.C. 1562;

Section 151.68 also issued under 19 U.S.C. 1311, 1562;

Section 151.69 also issued under 19 U.S.C. 1557, 1562;

Section 151.82 also issued under 19 U.S.C. 1481;

Section 151.91 also issued under the Additional U.S. Notes to Chapter 20, HTSUS.

SOURCE: T.D. 73–175, 38 FR 17470, July 2, 1973, unless otherwise noted.

§ 151.0 Scope.

This part sets forth general provisions governing the examination and sampling of imported merchandise, as well as specific provisions governing the examination, sampling, and testing of certain particular types of merchandise.

Subpart A—General

§ 151.1 Merchandise to be examined.

The port director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws and any other laws enforced by the Customs Service.

[T.D. 81–240, 46 FR 45130, Sept. 10, 1981]

§ 151.2 Quantities to be examined.

(a)(1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. Port directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

(i) Imported in packages the contents and values of which are uniform, or

(ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the port director is authorized to release, without examination, merchandise of a character which the port director has determined need not be examined in every instance to ensure the

protection of the revenue and compliance with the Customs laws and any other laws enforced by the Customs Service.

[T.D. 81-240, 46 FR 45130, Sept. 10, 1981]

§ 151.3 Disclosure of examination packages.

Information as to the particular packages which will be examined shall not be made available to the importer, his agent, or any person other than Customs officers necessarily concerned, until the merchandise has arrived within the limits of the port of entry.

§ 151.4 Time of examination.

Imported merchandise shall not be opened, examined, or inspected until it has been entered under some form of entry for consumption or warehouse, except in the following cases:

(a) *Official Government examination and sampling.* Authorized employees of the Customs Service, Food and Drug Administration, Animal and Plant Health Inspection Service, Public Health Service, or other Government agency may for official purposes examine or take samples of merchandise for which entry has not been filed, including merchandise being released under a special permit for immediate delivery.

(b) *Perishable merchandise, benzenoid chemicals, and merchandise received without an invoice.* An application by the importer to examine merchandise, whether or not covered by an entry for transportation in bond or for exportation, may be granted by the port director, under the conditions listed in § 151.5, in the following cases:

(1) Examination of perishable merchandise is desired solely to determine its condition. This is not limited to a single examination, and there is no objection to incidental display to prospective buyers during the examination.

(2) [Reserved]

(3) The importer has been unable to obtain the required documents or information to make the necessary entry, and examination of the merchandise is required to obtain information for the preparation of a pro forma invoice to be used in making entry.

(c) *Examination of merchandise entered for transportation under bond or for exportation—(1) Examination, sampling, weighing or emergency operation.* As a bona fide incident to exportation or further transportation, the importer of merchandise entered or withdrawn for transportation under bond or for exportation may, upon written application to the port director supported by a valid business reason for the request, be permitted to examine, sample, weigh, or subject his merchandise to an operation required by reason of an emergency, provided that any operation performed on the merchandise does not constitute a manufacture, and that § 151.5 is complied with. For conditions governing transshipment and emergency access to the shipment by the carrier, see § 18.3 of this chapter.

(2) *Nonemergency operation.* In cases not involving an emergency, an operation not constituting a manufacture may be permitted under the conditions listed in paragraph (c)(1) of this section if neither the protection of the revenue nor the proper conduct of Customs business requires that the operation be done in a Customs bonded warehouse, provided that the importer's written application for such operation is approved by the port director.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 95-99, 60 FR 62733, Dec. 7, 1995; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

§ 151.5 Conditions for examination prior to entry.

Examination, sampling, weighing, or operation upon merchandise at the importer's request prior to entry for consumption or warehouse, as provided for in § 151.4 (b) and (c), shall be subject to the following conditions:

(a) The operation permitted shall be executed under Customs supervision;

(b) If the merchandise is in possession or joint possession of a carrier or container station operator, the concurrence of such carrier or operator shall be obtained; and

(c) The Government shall be reimbursed for the compensation, computed in accordance with § 24.17(d) of this